

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

COUNTY TEXT AMENDMENT NO. 16016:)
TEXT AMENDMENT TO THE LANCASTER)
COUNTY ZONING RESOLUTION, TO AMEND) RESOLUTION NO. R-17-0044
ARTICLE 18 RELATING TO SPECIAL HEIGHT)
AND USE NEAR AIRPORTS, AS PROVIDED IN)
ATTACHMENT A)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114, the Lancaster County Board of County Commissioners (“Board”) is authorized to make amendments to the 1979 Zoning Resolution of Lancaster County, which are consistent with the County’s Comprehensive Plan and after receipt of specific recommendations from the Lincoln/Lancaster County Planning Commission (“Planning Commission”);

WHEREAS, the Lincoln-Lancaster County Planning Department (“Department”) has requested a text amendment to the Lancaster County Zoning Resolution to amend Article 18 of the Lancaster County Zoning Resolution relating to Special Height and Use Near Airports to modify requirements for height permits, by repealing and adding various sections within Article 18 of the Lancaster County Zoning Regulations as hitherto existing, as provided in Attachment “A,” attached hereto and incorporated by this reference;

WHEREAS, the Department has recommended approval of this amendment concluding that the proposed changes are in conformance with State airport zoning regulations and the 2040 Comprehensive Plan and should not have a negative impact on the operations of the Airport nor a significant negative impact on properties within the airport overlay districts. These changes will reduce the overall areas affected by airport height permitting requirements and streamline

the height permit process for the development community while maintaining sufficient protection against airport hazards;

WHEREAS, on April 12, 2017, after public hearing, the Planning Commission voted 8-0 to recommend approval of said text amendments;

WHEREAS, on May 9, 2017, the Board conducted a public hearing regarding said text amendment; and

WHEREAS, on May 9, 2017, the Board during a public meeting voted to approve the proposed text amendment;

WHEREAS, insufficient notice of the May 9, 2017, public hearing was published;

WHEREAS, following 10 days public notice pursuant to Neb. Rev. Stat. § 3-307, on June 6, 2017, the Board conducted a second public hearing regarding said text amendment; and

WHEREAS, on June 6, 2017, the Board during a public meeting voted to APPROVE the proposed text amendment;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of Lancaster County, Nebraska, that the amendments to Article 18 of the Lancaster County Zoning Resolution relating to Special Height and Use Near Airports, as provided in Attachment "A," are hereby APPROVED;

AND BE IT FURTHER RESOLVED, that Resolution R-17-0038 is hereby rescinded.

DATED this 6 day of June, 2017, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this 6 day of
June, 2017.

Deputy County Attorney

for JOE KELLY
Lancaster County Attorney

Jennifer J. Binkman
Deb Schorr
Toby Wilg
Bill Arny
[Signature]

ATTACHMENT A

ARTICLE 18 SPECIAL HEIGHT AND USE REGULATIONS NEAR AIRPORTS

18.002 Definitions

As used in this Article unless the context otherwise requires:

Airport means the Lincoln Airport located in Sections 4, 5, 6, 7, 8, 9, 17 and 18, Township 10 North and Sections 31 and 32, Township 11 North, Range 6 East of the Sixth Principal Meridian, Lancaster County, Nebraska.

Airport hazard means any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone.

Airport hazard area means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Article, but such area shall not extend in any direction a distance in excess of the limits provided for approach, operation, transition, and turning zones.

Building Official means the Director of the Department of Building and Safety of the City of Lincoln, Nebraska, or his or her authorized representative.

Existing runway means a runway that has been constructed or is under construction.

Instrument runway means an existing runway with precision or nonprecision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or nonprecision instrument approaches reflected on the airport layout plan.

Lessee means any person, other than the owner, in possession of land.

Nonconforming use means any structure or use of land which does not conform to a requirement of this Article or an amendment thereto, as of the effective date of this Article.

Person means any individual, firm, association, corporation, or body politic and includes any receiver, assignee, or similar representative thereof.

Proposed runway means a runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

Runway means a defined area at the Airport that is prepared for the landing and takeoff of aircraft along its length. For purposes of this Article 18, only paved Instrument Runways as defined herein shall be included within the term "runway."

Shaded Area shall mean those hatched mark areas on the Lincoln Airport Zoning Map representing areas within 4 miles from the end of a runway having elevations that are 75 feet or more above the elevation on the nearest runway end.

Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

Tree means any object of natural growth.

18.006 Permit Required; Procedure; Certification; Exception

(a) Except as provided in ~~subparagraph (b)~~ Section 18.006a, it shall be unlawful to erect, construct, reconstruct, repair, or establish any structure or appurtenances thereto of any kind or character within the boundary of the Airport Hazard Area of the Airport without first obtaining a height permit from the Building Official. A height permit shall not be issued for any structure or appurtenances thereto that exceeds the height restrictions set forth in Section 18.005.

~~(b) No height permit shall be required within the turning zones, or that part of the approach zones located more than 7700 feet from the end of the runway, for construction of any proposed~~

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~~structure that will be no higher than 75 feet above the elevation of the natural ground at the location of the proposed construction except for construction in those specifically "shaded" areas (elevation 1,248 feet A.M.S.L. or higher) indicated on the Lincoln Airport Zoning Map that are within four miles from the end of a runway. Structures or building proposed to be construction within such "shaded" areas on said map shall require certification as to elevation. No certification as to elevation or a height permit shall be required for proposed accessory structures or accessory buildings to dwelling units when said proposed accessory structures or accessory buildings or any attachment thereto do not exceed the elevation of said dwelling unit.~~

(eb) Application for a height permit as required under the provisions of this Article shall be made upon a form which is available in the office of the Building Official. The application shall indicate the location, ground elevation with reference to the elevation at the closest point on a runway, and the height of the proposed structure. Said elevation shall be certified by a land surveyor, registered by the State of Nebraska, which certificate must accompany said application.

(c) An application for a height permit may include all of the area and proposed structures within a plat or addition that is residentially zoned, and, if the requirements of this Article as to height restrictions are met, a blanket height permit may be issued for all of such area and structures. A notation shall be included upon the plat, community unit plan, or other appropriate document of approval, reflecting the fact that the area is the subject of a blanket height permit.

~~(d) Upon completion of, and prior to operating or occupying, any structure or building requiring a height permit, including each structure covered by a blanket height permit, the applicant, owner of the structure, or agent thereof, shall submit to the Building Official shall require a registered professional a surveyor, certified by a registered professional surveyor verifying the to verify the actual height and location of anythe structure or building. The certification shall be submitted to the Building Official at the point of final construction of the structure or building, but prior to operation and occupying the structure or building. Such information shall be recorded and maintained by the Building Official.~~

(e) A permit fee shall be required in accordance with Article 23 of these ~~regulations~~ is Resolution, and all fees received shall be paid to the County Treasurer for deposit in the County general fund. No fee shall be charged for a permit for any construction or repair whose estimated cost is less than \$100.00.

(f) No post-construction certification shall be required for a single family or two family dwelling meeting all of the following criteria:

(i) it is located within the Shaded Area;

(ii) it is located within a zoning district, community unit plan, or planned unit development where the maximum permitted height is 35 feet or less; and

(iii) the area in which the structure is located has an elevation, as shown on the height permit, of not more than 100 feet above the elevation on the nearest existing or proposed runway end.

As required by Article 20 of this Resolution, the Building Official will confirm that each such single family or two family dwelling complies with the applicable height restrictions of the underlying zoning district before issuing a Certificate of Occupancy or a Certificate of Completion.

18.006a Permit Required; Exceptions; Removal of Portions of Shaded Area; Accessory Structure

(a) No height permit shall be required for construction of any proposed structure that will be no higher than seventy-five feet above the elevation of the ground at the location of the proposed construction:

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(i) Within the turning zoning, or that part of the approach zones located more than seven thousand seven hundred feet from the end of the runway, except for construction in the Shaded Area; or

(ii) Within any portion of the Shaded Area for which:

(1) a grading plan has been filed with the Building Official or Planning Department, and a copy sent to the Airport Engineer, certified as to elevation by a registered professional surveyor, establishing that all of such area presently has or will have, upon completion of the grading, an elevation that is lower than 75 feet above the nearest existing or proposed runway end; and

(2) a certification from a registered professional surveyor has been received, certifying that the grading has been completed and that the area has an elevation that is lower than 75 feet above the nearest existing or proposed runway end. Upon receipt of said certification, following completion of the grading, a notation shall be included by the Planning Director upon the plat, community unit plan, or other appropriate document of approval, reflecting the fact that the subject area meets the requirements of this subsection.

(b) The Planning Director shall amend the Lincoln Airport Zoning Map to remove from the Shaded Area any portion thereof that has met all the requirements of subsection (a)(ii) above. Notice of the Planning Director's administrative amendment to the Lincoln Airport Zoning Map shall be posted on the Planning Department's webpage and included in a written report to the County Clerk.

(c) No height permit shall be required for any proposed accessory structure when the proposed accessory structure or any attachment thereto does not exceed the elevation of the main structure.